

# INFORMATION LETTER

Not for  
Publication

NATIONAL CANNERS ASSOCIATION

For Members  
Only

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## HOUSE TAX LEGISLATION

**Provides for Current Collection, 20%  
Withholding, and Cuts in 1942  
Individual Income Taxes**

Taking action which may set the pattern for final "pay as you earn" tax legislation, the House, on May 4, passed a tax bill providing for:

- (1) Current collection of individual income taxes,
- (2) Twenty per cent withholding of employees' salaries and wages, and
- (3) Elimination, or substantial reduction, of 1942 individual income taxes.

The bill was promptly sent to the Senate, where it is now under consideration by the Finance Committee. That Committee is expected to issue its report in the near future.

The House bill, in the form of amendments to the Internal Revenue Code,

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## House Group Asks Grade Labeling Postponement

With the unanimous approval of his Committee, Chairman Clarence F. Lea of the House Committee on Interstate and Foreign Commerce on May 6, requested Price Administrator Prentiss M. Brown to postpone the effective date of any grading or standardization orders already issued, or the issuance of which is being considered.

Chairman Lea also advised Mr. Brown that a subcommittee of the Interstate and Foreign Commerce Committee, the membership of which was reported in the INFORMATION LETTER of May 1, would start public hearings on May 24 on the subject of grade labeling and standardization. This action of the House Committee is being pursued under authorization of the Halleck resolution.

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## TRAINING KEY MEN URGED

**Selective Service Advises Preparation  
of Next Year's Replacements  
During 1943 Season**

The Association's Manpower Division is urging that canners do everything possible to train key workers during the 1943 season, from among older men, physically unfit men, and from among women, so as to obviate a threatened scarcity of key workers for 1944. In a bulletin sent to State secretaries, the Division presents a quotation from Brigadier General Ames T. Brown, New York State Director of Selective Service, which emphasizes the need for preparation of replacements. Brig. Gen. Brown's statement is as follows:

"Next Fall do not ask us to defer an employee of military age until the season of 1944. You will have the season of 1943 to train your future skeleton force and theoretically, that nucleus should not contain men eligible for military service. If it does, you should not ask for the deferment of such men. In other words, put your house in order by training replacements not subject to military service for your key positions."

The necessity for training key workers has been brought to the attention of the Division not only by Selective Service but by the Army itself.

The bulletin to State secretaries also presents the following figures, issued by WMC in connection with the latest revision of Selective Service classification:

Goal set for armed forces, January 1, 1944.....	10,800,000
In service, January 1, 1943.....	7,000,000
To be inducted in 1943.....	3,800,000
Grand total all men in the 18-37 age group.....	22,000,000
In service, January 1, 1943.....	7,000,000
Unit for military service.....	8,000,000
Farm workers to be deferred.....	1,500,000
Available men to draw from.....	5,500,000
Requirements for 1943 induction.....	3,800,000
Balance remaining: key workers, hardship cases, everything.....	1,700,000

"Two out of every three men (18-37, inclusive), single or married, with or without children, physically fit, not farming, and not in the armed forces, January 1, 1943, must be in uniform by the end of 1943."

## RECENT DEVELOPMENTS UNDER THE RENEGOTIATION LAW

**Requests for Contract Lists Should  
Not Be Confused With Actual  
Renegotiation Procedure**

On October 17, 1942, at page 7276, the INFORMATION LETTER directed the attention of canners to the fact that their contracts with certain government departments were subject to renegotiation, irrespective of whether those contracts contained specific renegotiation clauses. During the past two months, numerous canners have been requested by Regional Price Adjustment Boards of the Army or Navy to submit a list of all government contracts entered into during the fiscal year 1942, so that the canner could be assigned to the appropriate Price Adjustment Board for renegotiation.

These initial notices issued by the Price Adjustment Boards usually constitute a preliminary step only and are not to be confused with actual renegotiation procedure. It is the usual practice for the Board to examine the list of government contracts submitted, and to assign the canner for renegotiation to that government department which has purchased the greatest volume of canned foods from the particular can-

ner during the fiscal year. This permits the renegotiation of a canner's total contracts for the fiscal year by one Price Adjustment Board, even though the canner has contracted to supply canned foods to several of the renegotiating departments, and avoids the possibility that a canner would be required to deal with several different Price Adjustment Boards during the course of a fiscal year. The majority of canners will, of course, be assigned to the War Department Price Adjustment Board. Any canner who receives, or who has received, a notice from a Price Adjustment Board, should examine the notice to determine whether the information requested is for the purpose of assignment only, or for the initiation of renegotiation conferences. It is suggested that before canners submit their list of government contracts to the Board, they read carefully the recommendations which appear at the close of this article.

In view of the current interest in the renegotiation statute, a brief recapitulation of the purposes and provisions of that law may be useful.

(Continued on page 7646)

## SELECTIVE SERVICE INSTRUCTS EMPLOYERS OF FATHERS

### Form 42B Should be Filed Immediately For Each Key Employee With Children Under 18

The Selective Service Bureau of the War Manpower Commission on May 6 issued a statement on classification of fathers to all employers engaged in essential activities. Acting on the information in this statement, every canner should, without delay, file with the proper local board, Form No. 42B (available at local board offices) for every key employee who maintains a bona fide home with children less than 18 years of age, born on or before September 14, 1942.

By so doing the employer is protected to the extent that the local draft board will notify him whenever the board undertakes to reopen the registrant's classification.

This matter will be of great importance to canners as the induction of men into the service progresses. Text of the WMC statement is as follows:

"Employers engaged in war production or in activities essential to support of the war effort should file with Selective Service local boards written evidence of their employment of registrants who maintain bona fide homes with children less than 18 years of age, born on or before September 14, 1942.

"The local board thus will be advised of the registrant's employment in an essential activity, and the employer will receive notice of reopening of the registrant's classification any time it is undertaken by the local board. The employer, after receiving such notification, will have opportunity to submit additional evidence of the essentiality of necessary men in his employ.

"The only fathers now being inducted under the Selective Service Act are those engaged in activities or occupations on WMC's non-deferrable list; farm workers who, without permission of their local board, leave essential agriculture pursuits for which they have been deferred, and fathers whose children were born on or after September 15, 1942. Submission of Form 42B is urged, however, for men who have a child, or children, with whom they maintain a bona fide family relationship in their homes, to assure the employer that if the time comes when such registrants are needed in the armed forces he would receive notice of his employees' Selective Service status.

"Heretofore, Form 42B was used by employers to indicate men with dependents engaged in an activity essential to war production or in support of the war effort for whom a Class III-B deferment was requested. However, now that Class III-B, for the designation of such men, has been eliminated, Form 42B will be filed only for men with children who are in Class III-A.

"Coincident with these suggestions to employers, Selective Service also announced an interpretation of its previously issued memorandum relating to filing calls. On April 12, 1943, in a memorandum to local boards Selective Service said:

"Insofar as possible, men who are finally classified in Class I-A, men fit for military service; Class I-A-O, men fit for noncombatant service in the armed forces; or Class IV-E, men fit for work of national importance, who are available for induction or assignment to work of national importance, should be called for induction or assignment to work of national importance from the following groups in the order listed: (1) single men with no dependents, (2) single men with collateral dependents, (3) married men with wives only, and (4) men with children."

The revised section provides:

"When a local board is filing a call it shall first select and order to report for induction specified men who have volunteered for induction. To fill the balance of the call it shall from the groups listed below, and insofar as possible in the order in which the groups are listed, select and order to report for induction specified men finally classified

"1. Men with no dependents. (All men not qualified for Group 2, Group 3, or Group 4, below, will for this purpose be considered as men with no dependents.)

"2. Men with collateral dependents, provided such status was acquired prior to December 8, 1941.

"3. Men who have wives with whom they maintain a bona fide family relationship in their homes, provided such status was acquired prior to December 8, 1941.

"4. Men who have children with whom they maintain a bona fide family relationship in their homes, provided such status was acquired prior to December 8, 1941. (Now limited to those who were placed in Class I-A or Class I-A-O because they left an agricultural occupation or endeavor essential to the war effort without the permission of their local boards or because they were engaged in nondeferrable activities or occupations.)"

### Labor Director Named

The War Food Administration has named Col. Philip G. Bruton, Director of Interstate and Foreign Labor. Under Deputy Administrator Lt. Col. Jay L. Taylor, Col. Bruton, who has been loaned to WFA by the War Department, will be responsible for the supply and distribution of foreign labor and the domestic labor moved from one State to another.

### Manpower Problem

The labor supply and wage situations as they affect the canning industry remain unchanged. The need of some definite action is recognized, and the House Committee on Agriculture has evidenced its attitude toward getting relief by preliminary arrangements for a hearing, if necessary, to develop the basis for such action.

### Manpower Shortage Contributes To Reduction in Shrimp Packs

Production of canned shrimp in Gulf and South Atlantic States during the first quarter of 1943 was approximately 20 per cent lower than in the same period of 1942, Harold L. Ickes, Coordinator of Fisheries, recently announced.

Cases of canned shrimp packed in plants under the supervision of the Food and Drug Administration numbered 48,739 for the quarter as against 60,839 for the like period of last year. The figures do not include the pack of unsupervised plants, but this pack is normally small, it was stated.

The decline in shrimp production has been largely due to manpower shortages in both fishing and processing operations, as well as to the fact that a number of the larger vessels formerly used in shrimp trawling have been taken over by the armed forces, according to the announcement.

### Use of N. Y. School Pupils

New York canners, under the terms of a recently enacted State statute, may utilize the services of school children who are 14 years of age or older for a period not in excess of 30 days in any school year. This action of the State Legislature permits the Commissioner of Education, until July 1, 1944, to release from school for planting and harvesting work and for work in canneries, pupils who are in suitable physical condition.

### OPA Paperboard Requirement

Producers of paperboard sold east of the Rocky Mountains and their customers must preserve their records of sales or purchases of paperboard aggregating ten tons or more for as long as the Emergency Price Control Act of 1942 remains in effect, the Office of Price Administration said May 5.

# GREEN PEA CONDITION

## USDA Reports on Progress of Planting And Conditions as of May 1

The Bureau of Agricultural Economics of the Department of Agriculture on May 6 issued a report covering the progress of the planting of green peas for processing and the condition as of May 1. Text of the report follows:

**General Comments:** Preparations for the 1943 crop of green peas for processing were hampered by too much moisture in much of the country east of the Rocky Mountains. Along the Pacific Coast, and in Utah and Colorado, growers generally carried on their planting operations about on schedule except in scattered areas where April showers interfered.

The greatest delay occurred in western New York and vicinity. Up until May 1, field work had advanced very slowly and only a small part of the acreages intended for processing peas had been planted. In the rest of the country, progress of planting and the development of the crop was about two weeks later than usual.

**Delaware, Virginia, and Eastern Shore of Maryland:** Despite an early-season delay of about two weeks in this part of the country, growers finished planting seed late in April under conditions that were favorable for prompt germination. In some of the first fields to be planted, vines were 8 to 10 inches high by May 1 and the most advanced plantings were nearly ready to bloom.

**Pennsylvania and Western Maryland:** Planting of green peas in southern Pennsylvania and western Maryland was completed before the end of April except in some of the mountainous areas. These fields will be planted early in May. Satisfactory germination was taking place in the April planted fields.

**Maine and New England States:** Growers in the central part of Maine expected to plant some of their acreage to green peas before the end of April. In northern Maine and the other New England States, planting will get under way some time in May.

**New York State:** Rains and unseasonably cool weather disrupted the planting program in western New York State. By May 1, most of the growers were two weeks or more behind schedule.

**Ohio, Indiana, and Michigan:** Conditions similar to those in New York State extended into Michigan and westward across Indiana. They were not as serious, however, and most growers were able to plant a part of the acreage intended for peas during the latter part of April.

**Illinois and Wisconsin:** Cool temperatures prevailed through April and troublesome rains were frequent, especially toward the end of April. But preliminary field preparations got under

way about the middle of the month and many growers had some acreage ready to plant by April 20. Rapid progress was made in the following 10-day period in planting Alaska Type peas and a few growers expected to plant sweet varieties early in May. Germination was good in the early planted fields.

**Iowa and Minnesota:** An attempt was made early in April to plant some acreage to peas and a few growers were successful in getting their fields planted. But excessive moisture in the soil, cool weather and high winds slowed up operations and planting was prolonged through most of the month. Satisfactory germination took place in the fields planted early in the month and some vines were two inches or more high by May 1.

**Colorado and Utah:** Most of the acreage intended for green peas in these States was planted before the end of April, although an occasional canner expects acreage to be planted after May 1. In the first fields that were planted, germination was good and the crop was making a vigorous growth.

**Oregon and Washington:** Rains in western Washington and western Oregon interfered with planting operations but the growers persisted in their efforts to complete planting early in May. Satisfactory progress was made by the crop in this part of these States. In the Umatilla (Oregon) Walla Walla (Washington) area, growers expected to continue planting well into May. Conditions were satisfactory for the crop.

## Dry Bean Import Ceilings

Maximum prices for imported dry edible beans at the terminal market, or other wholesale receiving point, were established May 4 by the Office of Price Administration at the prices already prevailing for the most similar domestic type delivered at the same market.

This action was taken through Amendment No. 5 to Maximum Price Regulation No. 270 (Dry Edible Beans, Sales Except at Wholesale and Retail). The amendment became effective May 8. The beans are sold under fixed mark-up regulations at wholesale and retail.

## Frozen Burlap Stocks Needed

The Textile, Clothing and Leather Division of the War Production Board has urged all textile mills and other owners of frozen stocks of burlap to offer the material to the Defense Supplies Corporation, Washington, D. C.

The burlap, frozen in the hands of former users under Conservation Order M-47, issued December 22, 1941, is needed to relieve the shortage for military and agricultural requirements, the

Division said. Frozen stocks of burlap may be used only for military and agricultural needs and can be released for no other purpose.

## PROCESSING LIMA BEANS

### USDA Reports Intended Acreage for 1943 With Comparisons

The Bureau of Agricultural Economics of the Department of Agriculture on May 6 issued the following report of intended acreage of green lima beans for processing:

If canners and freezers of green lima beans carry out their late April plans, the 1943 acreage planted to this crop will total 75,000 acres. This compares with 76,050 acres planted in 1942 and an average planted acreage for the preceding 10-year (1932-41) period of 39,200 acres.

Abandonment of acreage planted to green lima beans for processing has averaged around 6 per cent annually during the past 10 years. If loss occurs in 1943 about in line with the 10-year average abandonment, a planting of 75,000 acres will result in about 71,100 acres for harvest. The revised estimate of acreage harvested in 1942 is 66,150 acres and the 10-year (1932-41) average harvested acreage is 37,400 acres.

The 10-year (1932-41) average yield of green lima beans for processing is 1,106 pounds per acre. A harvest of 71,100 acres in 1943 with yields in line with the 10-year period of 1,106 pounds per acre would give a production of about 41,450 tons for canning and freezing. This compares with 38,030 tons produced in 1942 and an average production for the preceding 10-year (1932-41) period of 21,780 tons.

The following table shows the planted acreage which will result if these late April intentions to contract and plant are carried out. These intentions may be considerably modified before plantings are actually made, and therefore are not to be considered as an estimate of plantings for the coming season.

States	1942 planted Acres	1943 intended Acres
New Jersey.....	15,000	12,000
Delaware.....	*17,100	17,300
Maryland.....	* 4,200	4,300
Virginia.....	7,100	7,300
	43,400	40,900
Michigan.....	3,020	3,000
Wisconsin.....	* 3,400	3,300
	6,420	6,300
Other States.....	26,230	28,400
Total.....	76,050	75,000

\* Revised.

## THE RISE AND FALL OF POINT VALUES UNDER RATIONING

### New Table of Values Issued by OPA Reflects Sales Movements

The Food Rationing Unit, in its program of point pricing blue stamp foods, has made a number of changes in point values. These changes are designed to adjust the rate of movement into consumption so that the available supplies will last until the new pack becomes available in volume.

Studies have been made of the relative movement of individual can sizes for each product. The new point values assessed attempt to stimulate movement of some of the larger size cans which, under the old system of point pricing, were not moving as rapidly as some of the smaller sizes. Thus, the points assessed for No. 2 cans may not bear the same relation to the point values of No. 2½ that they did during April. Likewise, the relationship between No. 2's and 3 cylinder and 10's may vary considerably under the new plan. The point value per pound is no longer of much consequence and should be disregarded when calculating points.

The new official table of point values issued by Food Rationing lists the point values for No. 10 cans. Previously it was necessary to calculate point values for No. 10 cans by multiplying the per pound point value by the net contents as stated on the can. The weight groups of smaller cans have been changed and a number of them combined. For example, the No. 2½ can now falls in the group "over 1-lb. 6-oz., and including 2-lbs." This group formerly was designated as over 1-lb. 11-oz., including 2-lbs. Thus, the 2½ can carrying a net weight of 1-lb. 11-oz. now has the same point value as all other No. 2½ cans.

Experience in rationing canned foods has demonstrated that it is unnecessary to ration some of the items particularly small in quantity. The items listed on the official point value table that became effective May 2, are the only products now being rationed under Ration Order 13. Blue stamps need not be given up for any product that is not listed on this table. A number of processed foods were exempt from Ration Order 13 when issued. Amendment 24, issued May 1, adds the following products to the list of non-rationed products previously published in the INFORMATION LETTER: Clam broth, clam juice, clam juice cocktail, corn-on-the-cob (hermetically packed), frozen kale, green turtle soup, onion soup (hermetically packed), oyster soup, papaya nectar, terrapin soup, tomato sauce when packed in combination dinners (such as spaghetti or macaroni din-

ners). Clam juice, clam broth, and clam cocktail juice are also excluded from the definition of "canned fish" in Ration Order 16.

OPA, in announcing the change in point values, has stated: "Lowering of point values for most fruit and vegetable juices is designed to induce greater sales, since in spite of the fact that downward revisions were made last month, consumer purchasing has been slower than desired. This same reason applies to the reductions in point values for apples and in the No. 2½ can size of peaches, pears, sauerkraut, spinach, and tomato pulp and puree. The value of berries, cherries, plums, and prunes were lowered because the quality of these canned fruits deteriorates if they are carried over for more than one season.

"Point value increases such as are made in apricots, fruit cocktail and salad fruits, and pineapple are intended to slow down the sales of these products, which have been too rapid in relation to the movement of other fruits.

"Revisions of point values for tomato ketchup, pulp and puree, sauce and paste are, in effect, a realignment, reflecting supply, sales, and in the case of tomato paste, which is increased, the high degree of concentration of the product."

It should be noted that the list of canned vegetable items has been changed. Canned corn-on-the-cob has been removed from the list. Vacuum packed corn is listed separately and given a point value higher than brine pack and cream style. This is for the purpose of adjusting point values more nearly to the drained weight basis.

Canned greens, other than spinach, have been listed separately and given point values considerably lower than for spinach. Mushrooms, mixed vegetables, fresh shelled beans, and pumpkin or squash are listed separately and for the first time.

Tomato paste and tomato sauce are now listed separately with point values for paste being considerably higher than those for tomato sauce because of the greater concentration.

OPA also states that "frozen fruits and vegetables continue to carry the same point values that were assigned to them on April 22. There are no changes in the point prices of dried beans, peas, and lentils or of baby foods".

Canners, when reporting on Form 1305, should treat changes in the point values of any item removed from the list of rationed foods as if these point values had been reduced to zero.

The official table of point values effective for the month of May may be obtained from any post office.

### Ration Checks Transferable

General Rationing Order 3A, covering ration banking, has been amended by the Office of Price Administration, effective May 10. Following is text of an important section of Amendment No. 3:

"Sec. 1305.471. Checks transferable except by depositors. (a) A depositor who receives a check must endorse it and transfer it to his bank for deposit in his account. His bank will forward the check to the bank carrying the account on which it is drawn, where it will be charged to that account.

(b) A person who is not, and is not required to be, a depositor, who receives a check, may transfer or surrender it to any person, and such other person may accept it, for any purpose for which other evidences may be transferred or surrendered under the ration order authorizing the account on which the check is drawn. He must endorse the check before transferring or surrendering it. Any board or any office of the Office of Price Administration receiving a check from such a person must endorse it and return it to the bank carrying the account on which it is drawn, where it will be charged to that account."

### Calculation of Point Values of Canned Meats and Fish

Canners selling canned meat and canned fish under Amendment 18 of Ration Order 16 must calculate and invoice the point value of each shipment of each product by multiplying the net weight of the product by the point value per pound of that product. Fractions of one-half or more are increased to one point and fractions of less than one-half are dropped. If a shipment includes two or more products, the point values are not to be combined before adjusting for the fractional points, but each individual product is to be calculated separately. In its press statement issued May 3 along with text of the amendment, the Office of Price Administration included the following explanation:

"For example, if two cases of canned salmon had a total point value of 144½ points, and a case of canned liver paste had a total point value of 70½ points, and these two items were sold in a single transaction, by a primary distributor or wholesaler, the point total would be 145 plus 71, a total of 216 points, under the amendment. Previously, the regulations required that the 144½ and 70½ be added, giving a total of 215 points."

## FISH PRODUCTION REPORT

**Coordinator Cites First Quarter Gain For Some Commodities But Decrease for Others**

First quarter production figures of important fisheries show that "while we are just about holding our own, we are far from the production goals set for the fishing industry by the War Food Administrator," Harold L. Ickes, Coordinator of Fisheries, said on May 6.

Some improvement over the first quarter of last year was shown by the tuna, sardine, shark and halibut fisheries, but California mackerel receipts, Gulf shrimp and oysters were down, the Coordinator announced.

"Tuna landings in the first quarter were 8,372,837 pounds as against 5,962,135 pounds in the like period of 1942," he said. "Production of this important species, however, is only about a third of its pre-war level. In the first quarter of 1941, tuna landings were 17,797,026 pounds and for the same period in 1940 were 25,643,826 pounds.

"Mackerel receipts in California were 8,730,352 pounds, only a little less than in the initial quarter of 1942. First quarter landings in 1941 were 15,904,161 pounds, and in 1940 were 28,851,659 pounds.

"California sardine receipts were up to 88,904 tons from 61,644 tons in the first quarter of 1942. The 1941 figure was 111,649 tons.

"Gulf Coast shrimp receipts amounted to 33,545 barrels, representing a decrease from 35,622 barrels in 1942's first quarter and 42,168 barrels during a similar period in 1941.

"Gulf Coast oysters accounted for 476,000 barrels, a drop from 497,077 barrels in 1942 and 506,119 barrels in 1941."

## Community War Services

Following the establishment of the Office of Community War Services in the Federal Security Agency, Federal Security Administrator Paul V. McNutt has announced the new set-up which replaces the Office of Defense Health and Welfare Services, terminated by a recent executive order.

Charles P. Taft, who has directed these programs under Mr. McNutt since their inception, becomes Director of Community War Services in the new organization. John B. Kelly continues to head the physical fitness program as chairman of the new Committee on Physical Fitness, established by the FSA order.

## Booklet on Pea Aphid Control Made Available to Processors

Following the Eastern Pea Aphid Control Conference held in Baltimore early in March, the Committee on Notes and Recommendations appointed by the Conference prepared a summary of suggestions for pea aphid control, copies of which are available to members upon request directed to the Association's Bureau of Raw Products.

The method of control to use in any one locality will be governed largely by the type of machinery on hand, and the insecticides available, therefore several methods have been listed in the suggestions, which are timely and useful.

## RAISIN ORDER IS REVISED

**Directs Conversion of Grapes from Eight California Counties**

The 1943 production of raisin-variety grapes and Zante currant grapes in eight California counties must be converted into raisins and dried currants, unless specifically exempted, under provisions of an amendment to Food Distribution Order 17, the War Food Administration said May 4. Raisin-variety grapes affected are Thompson Seedless, Muscat, and Sultanina.

Object of the amendment is to effect the maximum production of raisins and currants to meet increased military, civilian and Lend-lease requirements. These requirements necessitate a minimum production of about 314,000 tons of raisins compared with a 1942 output of 255,000 tons.

As amended, the order applies only to Kern, Kings, Tulare, Fresno, Merced, Madera, Stanislaus, and San Joaquin counties. The original order included all California counties, with exemption provisions where conditions made raisin production impracticable.

Specific authorization by the Director of Food Distribution is required before more than 100 pounds of these grapes may be used for any purpose other than for drying. Similar authorization is required before these raisins and Zante currants can be converted into by-products.

The amendment also provides that on June 1, each person, other than a packer possessing unprocessed raisins produced in the eight counties prior to 1943, must set them aside for delivery to FDA, and each such person on March 1, 1944, must set aside all 1943 crop unprocessed raisins in his possession. The raisins must be held for one year unless acquired during that period by the FDA, or any person designated by the Director.

## WEEKLY REPORTS OF FISH PACKS REQUIRED BY WFA

**Filing of Fish and Shellfish Production Figures Ordered for 1943**

Packers of fish and shellfish subject to Food Distribution Order No. 44 are required to file weekly pack reports during their respective 1943 packing seasons, the War Food Administration said on May 5.

Under FDO 44.1, which became effective May 6, a pack report is required for each week after April 1 for species already being packed, while for other species, weekly reporting must begin when the packing seasons start.

Canners of salmon, pilchard, Atlantic sea herring and mackerel filed such reports regularly for the 1942 pack, and will continue to do so with respect to the 1943 pack.

Canners of tuna, yellowtail, bonito, shrimp and Pacific horse mackerel—species recently placed under reservation order—commence filing similar weekly reports when their respective 1943 packing seasons begin.

The weekly pack reports are to be filed on Form FDO-44-1, copies of which may be obtained from regional offices of the Food Distribution Administration at San Francisco, Dallas, Atlanta and New York. Text of FDO 44.1 follows:

### § 1465.21 Reports in Connection with Restricted Fish and Shellfish

#### (a) Definitions.

When used in this order, unless otherwise distinctly expressed or manifestly incompatible with the intent thereof: (1) The term "fish and shellfish" means fish and shellfish of the species designated in section 1465.20(b) of Food Distribution Order No. 44, Provided, That for the purpose of the reporting requirements contained in this order, Yellowfin, Skip Jack, and Bluefin tuna designated in Group 7 of said section shall be considered as one species. (2) The term "packing season" means the period from the time when a canner first commences to pack fish and shellfish on or after April 1, 1943, until the date that such canner ceases to pack fish and shellfish, or February 29, 1944, whichever date is the earlier.

#### (b) Weekly Reports.

Each canner shall report to the Director on Form FDO-44-1, entitled "Canned Fish and Shellfish: Weekly Pack Report," the quantity of each species of fish or shellfish packed by him in each calendar week of his packing season. Such reports shall be submitted for each calendar week during the respective canner's packing season, and such reports shall be submitted even though no fish or shellfish may be packed by such canner during a particular week. Reports for the calendar

weeks, or parts of calendar weeks, prior to the effective date hereof shall be submitted as aforesaid on or before May 8, 1943. Reports for the calendar weeks or parts of calendar weeks subsequent to the effective date hereof shall be submitted as aforesaid within four days after the last day of each such calendar week.

(c) *Seasonal Reports.*

In addition to the weekly reports described in (b) hereof, each canner shall report on Form FDO-44-1 the total quantity of each species of fish and shellfish, respectively, which were packed by him during his packing season, and submit such report to the Director within 15 days after the termination of such packing season.

(d) *Completion of Reports.*

All reports submitted to the Director pursuant to (b) and (c) hereof shall be completed pursuant to the instructions contained on Form FDO-44-1. The reporting requirements of this order have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

### Freight Carloading Record

Railroads of the United States in 1942 attained a new high record in the average number of tons per carload freight, the Association of American Railroads, recently announced. The average for that year was 40.1 tons per car. This is the fourth consecutive year in which a new high record has been established. In 1941, the average was 38.2 tons and in 1940, it was 37.7 tons.

This record resulted from the country-wide program in which shippers and receivers of freight have united to produce maximum efficiency in the loading of cars and also from General Order ODT No. 18, applying to carload freight, which became effective November 1, 1942, and which requires cars to be loaded heavier than in the past.

### Container Transporting Studied

Methods of speeding up and conserving transportation of containers were discussed at a meeting of the Transportation Industry Advisory Committee for the Containers Division and WPB officials in Washington, recently.

At the invitation of the Containers Division, trucking experts in the container industry submitted a suggested plan to assure prompt loading and unloading of trucks carrying containers. The submission was accompanied by a recommendation that WPB forward the plan to the Office of Defense Transportation for appropriate further action.

## WANTED AND FOR SALE

### Machinery—Equipment

This column is open only to members of the Association who want to buy or sell canning machinery and equipment. Names of firms listing the items below will be furnished upon application to the Association. In requesting names, please identify items by number.

### WANTED

94-W—Five Duplex Pease apple parers; also slicers and seed seller for them.

### FOR SALE

229-S—Six 36 x 36 x 36 Portland square cast iron retorts for 15-pound pressure (practically new).

230-S—New Haynie hot water tomato scalding complete; belt drive with temperature control.

231-S—New Ayars Niagara tomato washer, belt drive.

232-S—New Robins tomato skin pump.

233-S—Tomato pulper.

234-S—M & S 6-pocket filler for crushed corn.

235-S—Langenkamp Model B juice extractor.

236-S—Three 100-gallon stainless steel juice tanks, with motors and agitators as one unit.

237-S—Juice strainer.

238-S—Two Kewanee air lift wagon dumps.

239-S—Peerless filler for No. 10 and gallon cans; stainless steel bowl and latest type valves; good condition; complete with change parts.

### Machinery Installation Rates

Under an amendment to Maximum Price Regulation 136 covering Machines and Parts, and Machinery Services, the labor rates to be used in determining ceilings for installation of machinery (in cases where there have been no manufacturers' list prices for the installation) shall be those labor rates in the area of installation in effect on April 27, 1942, or resulting from an agreement or grant made or announced on or before April 27, 1942, or where the wage stabilization agreement issued May 22, 1942, between the Building and Construction Trades Department of the American Federation of Labor and certain agencies of the United States is applicable or where such rates have become the prevailing rates in that area, labor rates in effect on July 1, 1942.

## Seasonal Worker Employment Definitions in California Bill

The Canners League of California reports that Senate Bill No. 998, which amends the Unemployment Insurance Act of California by defining "seasonal employment" and "seasonal worker", is on the floor of the State Assembly for early vote.

The bill provides that the Employment Commission shall determine the date of the beginning and of the duration of the season or seasons with respect to each seasonal occupation and each locality within the State, with due regard to the nature of the work performed and the operating conditions in the establishments within which such work is performed, and the Commission may determine the season or seasons with respect to each such occupation and each establishment separately, if necessary.

It also provides that the seasonal worker shall be entitled to benefits only during the period in which he or she is normally employed. For example, a cannery worker, working during the tomato season only, would not be entitled to benefits immediately on the conclusion of that season, but would be so entitled during the next tomato season if unable to gain employment at that time.

### Controls on Insecticides

Restrictions on deliveries and use of pyrethrum insecticides are set forth in Food Production Order No. 11, which became effective May 1. The order requires that dealers obtain from customers a certificate showing that the user will use the pyrethrum insecticide solely for one or more of the following purposes: For control of caterpillars on cole crops, including cabbage; control of leaf hoppers and plant bugs on sugar beets and beet seed crops; control of corn earworm on sweet corn and seed corn; control of leaf hoppers on beans, potatoes, and raisin grapes, and of leaf hoppers and worms on cranberries. Pyrethrum also may be used for control of all insects on vegetables grown in farm, home community or Victory gardens, and for the protection of cattle from flies in dairy barns, and control of other insects around creameries, cheese factories, and related establishments handling dairy products.

Delivery may be made, without the certificate of use, of not more than three pounds of pyrethrum insecticide, if in a solid form, or not more than one quart, if a liquid, to any person.

## COMMUNITY CEILINGS

### Plan Announced for Establishment of Local Maximum Prices

Acting to implement Price Administrator Brown's pledge that dollars and cents ceilings would be extended to all major foods in the near future, the Office of Price Administration on May 4 stated that this program will begin May 9, with the announcement of community-wide ceilings on a substantial number of grocery products, to go into effect Monday, May 10, in approximately 150 cities.

The ceilings to be announced Sunday, OPA officials stated, will cover poultry, fluid milk, bread, eggs, butter, packaged cheese, sugar, cereals, evaporated and condensed milk, flour as well as a substantial number of other grocery items.

The ceilings, OPA stated, will be "community maximums." They will be the highest legal prices which may be charged in the areas covered. Stores which are restricted by present regulations to prices lower than these community ceilings will be required to adhere rigidly to the lower maximums. The May 9 announcement will be followed a week later by an additional group of commodities, including canned fruits and vegetables. Each week thereafter additional commodities will be added until the housewife's market basket is protected by prices known to buyer and seller alike.

Pork already is under cents per pound ceilings at retail. Beef, veal, lamb and mutton are scheduled to be placed under such ceilings on May 17. With the issuance of these ceilings, virtually all meats will be under dollars and cents regulations. The meat ceilings, unlike the community maximums, are the ceiling prices for all stores in all parts of the country, varying only according to pricing zone.

"The extension of dollars and cents ceilings to all important foods is the most important step we have yet taken in the control of food prices," Price Administrator Brown said, in announcing the new program. "Work has been under way on this program for many months. We are now in position to reap the fruits of this planning. The new price panels which are being appointed as part of the local war price and rationing boards will play a major role in the administration of these ceilings, and every housewife can now play her part in holding the line."

The price panels, created at Mr. Brown's direction, are citizen committees whose function is to assist in enforcement by educational work, by help-

ing to keep the dealer informed, by helping the buyer understand these ceilings, and by receiving reports and making checks on violations.

The announcement of the dollars and cents ceilings on May 9 will be accompanied by a stiffened enforcement program, designed specifically to insure that stores required under existing regulations to sell below the community maximums adhere rigidly to the regulations.

The community over-all dollars and cents ceilings in general will be established by applying to wholesaler's cost in the particular market area the maximum markup applicable under present price regulations for the small volume independent store. Larger volume stores which are allowed a lesser markup must sell at the lower figure and must continue to observe their present lower ceilings. OPA enforcement agents will be detailed to see that this is done. The small volume store can, of course, sell below the dollars and cents maximum prices. However, no retail store can sell above the community ceiling.

### Revisions of Reservation Order Coming Soon

Revised quotas of canned foods to be reserved for the Government under FDO 22 are expected to be issued early in the week of May 10. The revisions will make a number of changes, principally reductions in the amounts to be set aside for the Government.

### HOUSE GROUP ON LABELING

(Continued from page 7639)

Following is partial text of Chairman Lea's letter:

"The subcommittee has scheduled May 24 at 10 a.m. to begin hearings pursuant to this resolution which, in view of the many other important matters previously pending before the Committee, is the earliest date this matter could be given consideration, except the preliminary exploratory work on this subject which the subcommittee is now conducting.

"The full Committee has unanimously authorized me as Chairman to request that the effective date of any grading or standardization orders already issued, or the issuance of which is being contemplated, be postponed until the subcommittee has had an opportunity to secure further information on these orders during the course of the hearings above mentioned. *Special reference is made to orders affecting hosiery, underwear, work clothes, and the new*

*food order; or any other similar orders affecting standardization, grading, or curtailment of production.*

"I, therefore, take this method of formally requesting such postponement, and further request that you give this matter your prompt attention and advise me your conclusion with respect thereto."

As the INFORMATION LETTER went to press no announcement had yet been made by OPA on the labeling question. The Association has arranged to advise the entire industry promptly when the OPA arrives at its decision.

Commenting upon the contemplated work of the Subcommittee, its Chairman, Lyle H. Boren of Oklahoma stated:

"As a result of our preliminary discussions, the Committee is convinced of the growing concern of both producers and consumers throughout the country with many of the threatened regulations of OPA and other administrative agencies, which have nothing to do with the prosecution of the war or the maximum production of goods. Some of these regulations appear to be aimed more at reform than at the control of inflation or the winning of the war. Our Committee beginning May 24, expects to determine publicly just how far these agencies have exceeded or are attempting to exceed their authority as originally granted by the Congress. The unanimous support of the Halleck Resolution in Congress indicated the nationwide interest in this matter, and we expect to pursue our investigation aggressively."

### Canned Foods Not Subject to Authority of New WPB Agency

Canned foods will not come under the jurisdiction of the newly created Office of Civilian Requirements within the War Production Board. This agency, superseding the Office of Civilian Supply, was established by WPB May 2, and is headed by Arthur D. Whiteside. Its objective, as explained by WPB Chairman Donald M. Nelson, is to provide consumer goods and services adequate to maintain essential civilian life and the highest efficiency.

However, in the directive establishing the Office of Civilian Requirements, consumer goods and services are defined as meaning "all products and services personally consumed or used by individual civilians in the United States (including maintenance, repairs, and operating supplies for household or consumer use), except such products and services under the jurisdiction of the following claimant agencies: War Food Administration in the Department of Agriculture, National Housing Agency, and the Office of Defense Transportation."

## RECENT DEVELOPMENTS UNDER THE RENEGOTIATION LAW

(Continued from page 7639)

### Origin of the Renegotiation Law

Early in 1942, when the House of Representatives was considering appropriations totaling approximately \$19,000,000 for the military establishment, an amendment was adopted on the floor which provided that no portion of the funds appropriated should be used to pay contractors who did not agree to reimburse the Government for all profits in excess of 6 per cent of costs. The War and Navy Departments were opposed to a uniform, flat profit limitation because, although it places a uniform percentage of profit on gross sales, it does not operate fairly when applied to different types of business. For example, the War and Navy Departments recognized that in different businesses the same volume of sales may require widely varying amounts of capital, skill and work, depending upon the rate of turn-over, the nature of the article, and similar factors. The War and Navy Departments likewise felt that the contribution and performance of the contractor, as well as actual costs, should be considered in determining what constitutes "excessive profits" on war contracts. The method suggested by the War and Navy Departments was not adopted by Congress, but the present renegotiation law was substituted for the flat percentage profit limitation contained in the original bill and enacted into law as Section 403 of the Sixth Supplemental National Defense Appropriation Act of 1942, Pub. L. No. 528. On October 21, 1942, Section 403 was amended by Section 801 of the Revenue Act of 1942 to meet certain difficulties which had been encountered in the administration of the law.

### General Principles Considered in the Determination of Excessive Profits

Section 403 of the Sixth Supplemental National Defense Appropriation Act authorizes the Secretary of War, the Secretary of Navy, the Secretary of the Treasury, and the Chairman of the Maritime Commission to renegotiate contracts entered into by their respective departments if they believe that the profits realized, or likely to be realized, on those contracts may be excessive. If examination of the contracts involved reveal that excessive profits have been or are likely to be realized, the Secretaries are authorized to eliminate those excessive profits. Excessive profits may be eliminated in numerous ways, among which are cash refunds to the Government or reduced prices on future deliveries. In determining what constitutes excessive profits, the Secretaries are not bound by any fixed rate of profit or specific formula. The statutory definition of excessive profits permits the respective Secretaries to establish the principles which shall be followed in determining what constitutes "excessive profits".

On March 31, 1943, the Price Adjustment Boards of the War, Navy and Treasury Departments and the Maritime Commission issued a joint statement outlining the principles and policies to be followed in renegotiation procedure. In that joint statement, it was emphasized that the Price Adjustment Boards, in determining the existence of excessive profits, will follow seven broad principles.

- (1) That the stimulation of quantity production is of primary importance;
- (2) That reasonable profits should be determined without the limitation of any fixed rate of profit;
- (3) That the profits of the contractor will ordinarily be determined on his war business as a whole for a fiscal period rather than on specific contracts;
- (4) That as volume increases the margin of profit should decrease;
- (5) That consideration should be given to corresponding profits in pre-war base years of the particular contractor and for the industry, especially in cases where the war products are substantially like pre-war products;
- (6) That reasonableness of profit should be determined before Federal income and excess profits taxes; and
- (7) That a contractor should not be allowed to earn excessive profits merely because he lacks adequate working capital in relation to a greatly increased volume of business.

The Price Adjustment Boards have emphasized the fact that, in determining the amount of profits to which a contractor is entitled, those contractors who have contributed substantially to the war effort or whose costs are low should be rewarded with larger profits than those contractors whose contribution to the war effort is unimportant or whose costs are high.

### Canners Who May Be Required to Renegotiate

Any canner who holds one or more prime contracts with the War Department, the Navy Department, the Maritime Commission or the Treasury Department, or who holds any subcontracts under a prime contract with any of these departments, may be required to renegotiate if the aggregate amount of those contracts exceed \$100,000 for the fiscal year, and if final payment was made after April 28, 1942. For a further discussion of contracts subject to renegotiation, see the discussion under the heading "Exemptions".

The provisions of Section 403 apply to all contracts entered into by the War and Navy Departments and the Maritime Commission. Certain contracts of the Treasury Department have been exempted by the Price Adjustment Boards from the Renegotiation Law, but it is believed that the majority of Treasury Department contracts for the purchase of canned foods are covered

by the Act, since the Price Adjustment Boards have stated specifically that Lend-lease contracts and supplies for refugee relief under the Red Cross program are subject to renegotiation.

All Lend-lease contracts entered into by the Treasury, the Army, the Navy, and the Maritime Commission are subject to renegotiation. Canners will be particularly interested in the fact that Lend-lease contracts entered into by any other department or agency of the Government are not subject to renegotiation under the present law. Thus, if a canner holds Lend-lease contracts with the Federal Surplus Commodities Corporation, those contracts are not subject to renegotiation; but if he enters into Lend-lease contracts with the Treasury Department, the Navy Department, the War Department or the Maritime Commission, those contracts are subject to renegotiation.

All other canned food contracts with government departments other than the Army, the Navy, the Treasury and the Maritime Commission are exempt from renegotiation unless the purchasing government agency is acting as an agent for one of these four renegotiating departments. In order to determine whether a specific government agency is purchasing canned foods as an agent for one of the four renegotiating departments, the Price Adjustment Boards examine the facts surrounding the particular contract. There has been no statement by the Price Adjustment Boards outlining general classes of government contracts which are subject to renegotiation, and it is suggested that if a canner desires to know whether a particular contract is subject to renegotiation, he ask the contracting government department whether it is purchasing as the principal, or whether it is purchasing as an agent for the Army, Navy, Maritime Commission or Treasury Department.

### Exemptions

#### Final Payment before April 28, 1942.

All contracts entered into with the Army, the Navy, the Treasury and the Maritime Commission after April 28, 1942, are subject to renegotiation. Likewise any contract entered into prior to April 28, 1942, with any of these respective agencies is subject to renegotiation if final payment was not made prior to April 28, 1942, even though performance under those contracts took place prior to the year 1942.

Therefore, if final payment on any contract was made prior to April 28, 1942, that contract is not subject to renegotiation. This exemption in many instances may require a canner to determine whether a series of transactions constitutes one contract or several contracts. If a canner has a contract with one of the renegotiating departments requiring delivery of specified amounts of canned foods at different times, and only a portion of the cans were delivered and paid for prior to April 28, 1942, it will be necessary for him to determine whether the transac-

tion constitutes one contract or several contracts. If the entire series of deliveries constitutes one contract, then all of the transactions thereunder are subject to renegotiation. The question of when a series of transactions constitutes one contract or several contracts must be determined upon the basis of legal principles.

*Contracts with government agencies other than the Army, Navy, Treasury and Maritime Commission.*

As stated above, all *Lend-lease* contracts with government departments other than the Army, Navy, Treasury and Maritime Commission are exempt from renegotiation. All other contracts are also exempt from renegotiation unless it appears that the contracting governmental corporation was acting as agent for the Army, the Navy, Treasury or Maritime Commission. See the discussion above on this point.

#### *Discretionary exemptions.*

Each of the Secretaries is authorized, in his discretion, to exempt from any or all of the provisions of the renegotiation statute (i) any contract or subcontract to be performed outside of the territorial limits of the continental United States or in Alaska, (ii) any contracts or subcontracts under which, in the opinion of the Secretary, the profits can be determined with reasonable certainty when the contract price is established, and (iii) any portion of a contract or performance thereunder during specified periods if the Secretary believes that the provisions of the contract are otherwise adequate to prevent excessive profits.

The Secretary of War has delegated to the Chiefs of the Supply Services the authority to exempt any contract to be performed outside of the United States or in Alaska from some or all of the provisions of the statute. Until such contracts are specifically exempted from the renegotiation provisions, they remain subject to the Act. The attention of the canners is called to the fact that the Chiefs of the Supply Services may exercise their authority both with respect to existing contracts and to contracts executed in the future.

The Price Adjustment Boards have not issued any joint regulations exempting general classes of contracts because of variations, as between the departments, in the circumstances in which those contracts are entered into, but few of the discretionary powers to exempt particular contracts and specific classes of contracts have been exercised by the individual Secretaries.

#### *Aggregate contracts under \$100,000.*

As stated above, contractors whose total sales to the Army, Navy, Treasury Departments and Maritime Commission do not total more than \$100,000 for the fiscal year are exempt from the renegotiation statute.

#### *Statutes of Limitations*

The Renegotiation Act provides two statutes of limitations, one of which applies to individual contracts, and the

other to contracts for the entire fiscal year of the contractor.

Subsection (c) (8) of Section 408 requires that renegotiation of the contract price must be commenced within one year after the close of the fiscal year within which the contract is completed or terminated. The Price Adjustment Boards have adopted the position that the term "completion of the contract" means final delivery or acceptance under the contract rather than final payment. Therefore, final delivery of canned foods under a contract may be considered as the completion date of the contract.

In addition, Section (c) (5) permits a contractor to file with the appropriate department a financial statement for any prior fiscal year. Thereafter, the Secretary has one year in which he must give notice of renegotiation and fix a date for an initial conference, and unless such notice is given within one year and renegotiation commenced within 60 days of the notice, the liability of the contractor for excessive profits for that year is discharged. A joint regulation prescribing the form of the financial statements which the contractor may file was issued on February 1, 1943.

For the purposes of these two sections, the Price Adjustment Boards have taken the position that renegotiation commences on the specific date set by the Department for the initial renegotiation conference, unless otherwise agreed by the contractor.

#### *Exclusions and Deductions Allowed for Federal Income Tax Purposes*

Subsection (c) (3) of the statute requires the Secretaries, in determining the reasonableness of profits, to "recognize the properly applicable exclusions and deductions of the character" which the canner is allowed for income tax purposes. In recognizing these exclusions and deductions, the Price Adjustment Boards have taken the position that only those deductions or exclusions which are properly attributable to the contracts being renegotiated will be allowed. Thus, the Price Adjustment Boards do not allow the actual dollar amount of exclusions and deductions which the Bureau of Internal Revenue would permit. The position of the Departments with respect to certain specific deductions follows:

#### *Amortization.*

Many canners have secured Certificates of Necessity under Section 124 of the Internal Revenue Code permitting amortization of the cost of the facility over a 5-year period. Even though the canner elects to amortize the cost of the facility at this accelerated rate, the Price Adjustment Board will allow only ordinary depreciation in determining items of cost for renegotiation purposes. It will, however, deduct the amount of the amortization in excess of ordinary depreciation from the profits realized by the contractor

and will not include such amortization deduction as an element of excessive profits. Thus, for all practical purposes, the Board will recognize the amortization deduction in determining the reasonableness of profits.

In determining what constitutes excessive profits, the Board will give consideration to any value which the facility may have for post-war purposes, and it is probable that a smaller profit will be allowed if the facility involved may be used by the contractor in the post-war period for civilian production.

In the event the emergency is terminated before the end of the 5-year period, canners who have secured Necessity Certificates are permitted to amortize the entire cost of the facility over the shorter period instead of over the 5-year period. If a canner elects to take the deduction over the shorter period, he will be required to reopen his income tax returns for the years involved, recompute his tax liability and file claim for refund for any amount found to be due him. There is, however, no authority in the renegotiation statute for reopening renegotiation agreements to provide for the larger deduction allowed in the event the emergency period is shortened. Canners who have secured Necessity Certificates should, therefore, point out to the Price Adjustment Boards the possibility that the war may be terminated before the end of the 5-year period and that, in considering the reasonableness of profits, it should consider the possibility that the amortization deduction may be increased some time in the future, and profits for the fiscal year correspondingly reduced.

#### *Depreciation.*

The Price Adjustment Board will recognize ordinary depreciation as an item of cost for those war facilities not covered by Necessity Certificates which are carried on the books as capital additions. If the Bureau of Internal Revenue permits a higher rate of depreciation on machinery and equipment because of accelerated depreciation due to increased and continued use of the machinery and equipment for war production, it is probable that the renegotiation authorities will also allow the higher depreciation rate. Buildings will not be depreciated by the renegotiation authorities at the higher rate.

#### *Conversion.*

Costs incurred in converting facilities to war production, which do not represent capital expenditures, will be allowed for the year in which they are incurred. For example, it is suggested that canners who have converted their machinery to permit increased production of the can sizes preferred by the Government, may be permitted to deduct these costs in determining reasonable profits, provided they do not represent permanent additions.

#### *Net Operating Losses*

Section 122 of the Internal Revenue Code permits a taxpayer to carry back for two years, as well as forward for

two years, net operating losses incurred in any fiscal year, subject to certain conditions and limitations. (For a discussion of this section, see page 7263 of INFORMATION LETTER No. 904, October 10, 1942.)

The Price Adjustment Boards will allow any part of a net operating loss occurring in the preceding two fiscal years which is properly attributable to contracts subject to renegotiation. Thus, if a canner incurred a net operating loss during 1940 or 1941 which could be attributed to contracts subject to renegotiation in 1942, the Price Adjustment Board would allow the deduction. In determining the amount of the net operating loss to be allowed for renegotiation purposes, losses attributable to contracts on which final payment was made prior to April 28, 1942, would not be allowed because those contracts are not subject to renegotiation.

Even though a canner has no "net operating loss" to carry over for tax purposes, the Price Adjustment Board may give consideration to losses incurred in prior years on contracts subject to renegotiation. This does not mean that the full amount of the losses will be allowed in determining profits for the fiscal year, but only that those losses may be recognized as one of the factors to be considered in determining whether the profits earned are excessive.

Although the Internal Revenue Code provides for the "carry back" of net operating losses to prior years, which is accomplished by the reopening of the income tax returns for those prior years, the renegotiation statute contains no authority for reopening renegotiation agreements to give consideration to net operating losses incurred during subsequent years, even though the profits earned in any fiscal year may be later substantially reduced by net operating losses occurring in the subsequent two-year period.

#### War Losses

Section 127 of the Internal Revenue Code permits a deduction from income for all losses which are suffered by reason of the destruction or seizure of property on or after December 7, 1941, in the course of military or naval operations by the United States or any other country engaged in the present war. Such losses may be recognized by the Price Adjustment Board if the contractor furnishes satisfactory evidence showing the connection between the property seized or destroyed and the performance of the contracts being renegotiated.

#### Interest

The Price Adjustment Board will permit the deduction of all interest on borrowed capital which is properly applicable for purposes of renegotiation. Generally, all interest on borrowed funds is allocated between contracts subject to renegotiation and those not subject to renegotiation, on the basis of the proportion which each class of contracts bears to the total business.

As long as the borrowed capital is used for war purposes, it does not matter when the obligation was incurred. Interest incurred prior to the war may be allowed if the capital represented by such interest is used for war production.

#### Advertising

The Bureau of Internal Revenue has taken the position that advertising expenses, to be deductible, must be ordinary and necessary, and bear a reasonable relation to the business activities in which the taxpayer is engaged. On September 29, 1942, the Commissioner of Internal Revenue issued a statement, part of which read as follows:

"The Bureau realizes that it may be necessary for taxpayers now engaged in war production to maintain through advertising, their trade names and the knowledge of the quality of their products and good will built up over past years, so that when they return to peacetime production their names and the quality of their products will be known to the public.

"In determining whether such expenditures are allowable, cognizance will be taken of (1) the size of the business, (2) the amount of prior advertising budgets, (3) the public patronage reasonably to be expected in the future, (4) the increased cost of the elements entering into the total of advertising expenditures, (5) the introduction of new products and added lines, and (6) buying habits necessitated by war restrictions, by priorities, and by the unavailability of many of the raw materials formerly fabricated into the advertised products.

"Reasonable expenses incurred by companies in advertising and advertising technique to speed the war effort among their own employees, and to cut down accidents and unnecessary absences and inefficiency, will be allowed as deductions. Also reasonable expenditures for advertisements including the promotion of Government objectives in wartime, such as conservation, salvage or the sale of War Bonds, which are signed by the advertiser, will be deductible provided they are reasonable and are not made in an attempt to avoid proper taxation."

The Price Adjustment Boards follow the policy set out by the Commissioner, but have taken the position that ordinarily, advertisements specifically offering individual products for sale must be charged in full to commercial production. Advertisements designed to speed the war effort, however, will be allowed where it can be shown that such expenditures are reasonable and not out of proportion to the size of the company or the amount of its advertising budget in the past.

#### Salaries and Post-War Reserves:

Subsection (d) of Section 403 prohibits the Secretaries from allowing any "unreasonable" salaries, bonuses or other compensation paid by a contractor to its officers or employees, or any allowance for excessive reserves set up by the contractor, or unreasonable or excessive costs incurred by the contractor. In determining the reasonableness of salaries paid to officers or employees, the Price Adjustment Board will consider the nature of the work, the extent of the responsibility and experience of the officer or employee, and increases in compensation since January 1, 1939; and where possible, comparisons will be made with the compensation of officers or employees in similar situations in other companies within the industry. Weight will also be given to the value placed upon the services of the employee by the company itself.

With respect to reserves for post-war conversion of plant facilities to normal peacetime operations, it is the policy of the Price Adjustment Board to disallow any such reserves.

For the purpose of determining whether unreasonable compensation is being paid, or unreasonable reserves are being set up, etc., the statute confers broad powers upon the Secretaries to inspect and audit plants, books and records, to take testimony, and to issue subpoenas. In addition, each Secretary is given authority to require the filing of such financial statements as he may from time to time require, and a penalty of \$10,000 fine or two years' imprisonment, or both, is imposed for refusal or wilful failure to file such statements or for filing false or misleading information.

#### Over-all Renegotiation.

As stated above, the statute expressly permits the Price Adjustment Board to renegotiate the over-all profits on war contracts for a specific period. War contracts not subject to renegotiation will be included in the renegotiation proceedings if requested by the canner, provided that their inclusion does not reduce the profits on the renegotiable contracts, but the Price Adjustment Board will not, under any circumstances, include commercial or civilian contracts in the renegotiation.

#### Offset of Federal Taxes.

In determining the amount of excessive profits, the Price Adjustment Board will allow the canner a credit for the amount of Federal income and excess profits taxes paid or payable which are properly attributable to the "excessive profits". Thus, if income and excess profits taxes have been paid prior to renegotiation, the amount of the excessive profits to be recovered from the canner will be reduced by that portion of his income and excess profits taxes paid which are properly attributable to the amount of excessive profits.

If income tax returns have not been filed, the amount of excessive profits,

if finally determined, may be excluded from gross income in such returns.

### Final Agreements

Subsection (c) (4) permits the Secretaries to make final agreements, covering either past or future periods, with any contractor for the elimination of excessive profits and for the discharge of any liability for excessive profits under the law. These final agreements are to be conclusive except for a showing of fraud or misrepresentation of a material fact, and are not to be subsequently reopened.

### Termination of the Act

Subsection (h) provides that the Act is to remain in force for the duration of the war and for three years following the termination of the war.

### Truman Committee Recommendations

On March 31, 1942, shortly before the issuance of the Joint Policy Statement by the four Price Adjustment Boards, the so-called "Truman Committee" issued its report and recommendations with respect to legislative and administrative improvements in the renegotiation law. The Truman Committee is the special committee which was appointed by the United States Senate to investigate the National Defense Program. Although the Price Adjustment Boards have adopted a number of recommendations for administrative revision, which were suggested by the Truman Committee, there are several specific recommendations of interest to canners which have not as yet been adopted.

The two Truman Committee recommendations of particular interest to canners are (1) there should be an "increased use of administrative power to exempt from renegotiation all contracts in which renegotiation is not deemed necessary to protect the Government," and (2) the \$100,000.00 exemption in the present renegotiation law should be increased to \$500,000.00. The Truman Committee stated that those standard commercial articles, on which costs have now been accurately determined, may justifiably be exempted from renegotiation.

The Truman Committee likewise suggested that the Price Adjustment Boards should be consolidated; that some provision should be made for the creation of reasonable reserves to take care of prospective post-war losses and administration of emergency facilities; that allowable and unallowable costs should be itemized for both income tax purposes and renegotiation; that refunds agreed to should not be forced out of a contractor in a manner or at a time which is liable to hinder war production; and that the method of obtaining clearance from renegotiation should be further simplified by requiring the filing of copies of the income tax returns of contractors subject to renegotiation with the Price Adjustment Board.

The Truman Committee emphasizes

the importance of permitting the Price Adjustment Boards to allow a larger margin of profit to contractors who are making vital contributions to war production than to a contractor whose contribution is unimportant. The Truman Committee is in accord with the Price Adjustment Board's theory that meritorious contractors should be rewarded. In the application of the law to date there has apparently been extreme flexibility, since the Truman Committee discusses a justifiable range of profit before taxes from 2 per cent of sales to 20 per cent of sales.

### Recommendations of the N.C.A.

On April 11, 1943, the Committee on Taxation of the National Canners Association considered the application of the renegotiation law to the canning industry and the recommendations of the Truman Committee. The Taxation Committee discussed a number of amendments to the law, and decided that the canning industry should attempt to secure an exemption from the renegotiation law for canned vegetables, fruits, fish and meats, that is, all "regularly manufactured canned foods." This recommendation was forwarded to the Legislative Committee of the N.C.A. with the suggestion that that Committee present appropriation legislation to Congress. Hearings will shortly be held by the House Ways and Means Committee to consider H. R. 2324, a bill to exempt from renegotiation all contractors whose aggregate sales for the fiscal year do not exceed \$500,000.

Any canner who receives a notice from the Price Adjustment Board requesting a list of all of his government contracts for the fiscal year 1942, should itemize all contracts with the Army, the Navy, the Treasury and the Maritime Commission. All Lend-lease contracts with the Federal Surplus Commodity Corporation need not be listed since these are exempt.

In some instances contracts for canned foods entered into by the Army have been turned over to the Commodity Credit Corporation for return to the civilian market. Since these contracts were entered into with the War Department they must be reported as contracts subject to renegotiation. It is suggested, however, that in such cases a note be appended to the report submitted to the Price Adjustment Board pointing out that, although these contracts are technically subject to renegotiation, the canned foods will be returned to the civilian market, probably through regular commercial channels; and that since only war contracts are properly subject to renegotiation, these specific contracts should be exempted.

If the canner has additional government contracts, it is suggested that he add a note to the report, give the total amount of the additional government contracts and name the contracting government agencies, and state that he does not believe these contracts to be subject to renegotiation.

### HOUSE TAX LEGISLATION

(Continued from page 7639)

will not affect tax rates, which remain at the 1942 levels, and will not apply to the collection of corporate income taxes. Its purpose is to put substantially all individual taxpayers on a current basis and to allow them to pay all, or a substantial portion of their taxes as their incomes are earned. Basically, it provides for current payments beginning July 1, 1943, with computation of the exact tax at the end of the year, and payment of any balance during the following year. Because of differences in sources of income, two methods for collecting current payments have been provided.

### Twenty Per Cent Withholding Provisions

Current tax payments for the great majority of employees, who earn wages, salaries, or other forms of compensation for personal services, will be made by their employers who are required to withhold, and pay over to the Government, a percentage of each employee's wage or salary. The withholding provisions of the bill amend the provisions of the Internal Revenue Code under which canners are now withholding the Victory Tax. Accordingly, canners already are familiar with the general method of procedure. (See INFORMATION LETTER No. 916 for January 9, 1943.) If the bill is enacted, however, its 20 per cent withholding requirements will supersede the existing 5 per cent withholding requirements, and canners will not be required separately to withhold the 5 per cent Victory Tax.

The twenty per cent to be withheld is computed on the amount by which an employee's wage or salary exceeds the "withholding exemptions" provided in the bill, and two separate "withholding exemptions" must be considered for each employee. Of the entire twenty per cent, three per cent is based upon the amount by which the compensation paid to any employee exceeds a specific exemption per pay period. (\$12 weekly, \$26 semi-monthly, \$52 monthly, etc.) To that extent, the provisions of the House measure parallel those of the Victory Tax. The remaining 17 per cent to be withheld is based upon the excess of an employee's compensation over an exemption which takes into consideration his individual status, whether married, single, or having dependents. For example, if an employee is single, his employer will, by the provisions of the bill, deduct 17 per cent of the amount by which his weekly wage exceeds \$11. A married employee, however, can claim the benefit of a \$26 weekly exemption.

The House bill, however, does not require that each individual employer compute the amount to be withheld from the wages of each employee. As in the case of the Victory Tax, an employer may elect to determine his withholdings by reference to specific tables, which indicate the proper amount to be withheld in terms of wage brackets. An employer using the tables need only determine, (1) the status of the individual (married, single, etc.), (2) the duration of the pay period (weekly, semi-monthly, etc.), and (3) the amount of compensation paid. He can then consult the applicable schedule and withhold the amount disclosed.

Whether an employer elects to compute the withholding himself, or to use the withholding tables, he may rely upon "withholding exemption certificates" supplied by his employees. Under the bill, each employee must furnish his employer with a signed statement, setting forth his status and the amount of the "withholding exemption" to which he is entitled.

Certain types of employees are entirely exempted from the withholding requirements. An employer need not withhold any portion of the compensation paid for domestic services in a private home, for casual labor not in the course of his trade or business, for services performed by certain non-resident aliens, for services performed by employees outside the United States, or for "agricultural labor." As was indicated in the January 9 LETTER, the term, "agricultural labor," does not include employees of commercial canneries.

#### Current Payments of Taxes Not Withheld at Source

A second method for making current tax payments is provided for an individual having income from sources other than wages or salaries. In general, the bill requires that he file, during the year, a "declaration," setting forth the amount by which his estimated net income exceeds his estimated wage or salary. Twenty per cent of the excess is considered his "estimated basic tax," which he must pay, during the year, in installments.

As in the case of an employee subject to withholding, an individual making current payments of the "estimated basic tax" must pay the difference between the estimated and the actual tax during the following year.

#### Treatment of 1942 Taxes

The principal obstacle to earlier adoption of a "pay as you earn" tax bill has been the conflict as to the best method for handling 1942 taxes. The Ruml

Plan, which missed adoption by the narrow margin of four votes, in general called for elimination of 1942 taxes, in order to prevent double taxation during 1943. The House bill, however, does not go so far and is, instead, a compromise between complete collection and complete elimination of 1942 taxes.

If the House bill is adopted, an individual's 1942 income tax will be reduced by the sum of the normal tax (6 per cent) plus 13 per cent of his surtax net income. In addition, all 1942 income taxes for individuals who had gross incomes of less than \$3,000, and who used the short form of tax return, will be cancelled and discharged.

Under the House bill, the payments made on March 15 and June 15, 1943, will be considered as payments on the 1943 (rather than 1942) tax. A taxpayer, however, must also pay that portion of his 1942 tax not cancelled or discharged. If he elects to do so in installments, the amount by which his 1942 tax was reduced must be prorated to those installments and applied to the reduction of each.

As the Senate will probably receive and consider its Finance Committee's report this week, further developments in connection with "pay as you earn" tax legislation can be expected shortly. They will be reported in the LETTER.

## VEGETABLE DEHYDRATION

### War Board Issues New Instructions on Expansion, Conversion, Acreage

Instructions to State War Board Chairmen to assist dehydrators in obtaining necessary acreages and to report any case of payment of less than the support price for vegetables for dehydration, were contained in a USDA War Board memorandum issued by the Food Production Administration on May 4. Under the same date another War Board memorandum, dealing with the dehydration program, outlined a change in the manner in which applications for expansion and conversion to dehydration are handled.

Relevant portions of these two memoranda follow:

"The vegetable dehydration program is carried on under government contract between the Food Distribution Administration or the Quartermaster Corps and the dehydrators. Contracts are at levels permitting dehydrators to pay prices at least equal to support prices announced for canners. In view of this development, the certification procedure . . . need not be applied to dehydrators. However, War Boards who are now certifying dehydrators may follow this work through to the

extent that appears practicable. They should assist dehydrators in obtaining the necessary acreage and if in any case it is found that a dehydrator is paying less than the support prices, it should be reported to this office. A separate information memorandum is being released on the dehydration program."

### Establishment of Facilities

"To provide sufficient plant capacity to dehydrate this quantity (270,000,000 pounds) of vegetables, the Department instituted a program to secure additional facilities which, because of the shortage of critical materials, was based primarily upon the expansion of existing facilities and the conversion of other food processing facilities to vegetable dehydration. Dehydration plants are being located only where an adequate quantity of raw products can be produced.

"Until recently, applications for participation in this program have been cleared through a Joint Dehydration Committee composed of representatives of the Department of Agriculture, the War Department and the War Production Board in Washington, D. C. The procedure followed by this committee consisted of granting approval to applications for expansion or conversion whenever such expansion or conversion was desirable. Approved plants were then aided in securing priorities for needed materials. The War Production Board made an allocation of critical materials for use in this program. All such materials used must be charged against this allocation.

"This procedure is still being followed, except that applications are now given final consideration and approval by a committee composed of representatives of the War Food Administration and the Army Quartermaster Corps. Furthermore, provision has been made for a preliminary review and clearance of applications for expansion and conversion through the regional offices of the Food Distribution Administration prior to their consideration in Washington. The Regional offices are being requested to work in cooperation with the State War Boards in order to secure the necessary acreage of crops to enable plants to operate at capacity."

### New Association Members

The following firms have been admitted to membership in the Association since April 10, 1943:

Colorado Growers Co-Operative, Palisade, Colo.  
The Demerritt Co., Waterbury, Vt.  
H. J. Heinz Co., Pittsburgh, Pa.  
Humbird Canning Co., Whitewater, Wis.  
Watsonville Canning Co., Watsonville, Calif.  
Whitewater Canning Co., Whitewater, Wis.